

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 62339

Petitioner:

DV2, LLLP.,

v.

Respondent :

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on July 2, 2014, Gregg A. Near and Debra A. Baumbach presiding. Petitioner was represented by Kendra L. Goldstein, Esq. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2013 actual value of the subject property.

Subject property is described as follows:

**7700 S. Wheeling Court, Lot 7, Dove Valley Business Park Subdivision 12th Filing, Englewood, Colorado
Arapahoe County Schedule No. 2075-36-1-10-009**

**7730 S. Wheeling Court, Lot 6, Dove Valley Business Park Subdivision 12th Filing, Englewood, Colorado
Arapahoe County Schedule No. 2075-36-1-10-010**

The subject property consists of two vacant land parcels located in the Dove Valley Business Park Subdivision Filing 12, in unincorporated Arapahoe County. Lot 7; Schedule No. 2075-36-1-10-009 consists of a 2.10 acre irregular shaped site, zoned A-MU (mixed-use commercial) and classified as vacant commercial land. The topography is generally level, available utilities and site improvements include curbs and gutters. Lot 6; Schedule No. 2075-36-1-10-010 consists of a 1.93 acre irregular site zoned A-MU(mixed-use commercial) and classified as vacant commercial land. The topography is generally level, available utilities and site improvements include curbs and gutters.

Lot 6 is located on the southeast corner of E. Adams Aircraft Circle and E. Broncos Parkway and access to the site is off E. Adams Aircraft Circle. Lot 7 has access of E. Broncos Parkway. Both Lots 6 and 7 are located within close proximity to Centennial Airport. The sites are influenced by The Overlay District Airport Influence Area that regulates development in the area and aircraft noise.

Petitioner is requesting an actual value of \$118,919 for Lot 7; Schedule No. 2075-36-1-10-009 and \$109,291 for Lot 6; Schedule No. 2075-36-1-10-010 for the subject property for tax year 2013. Respondent assigned a value of \$161,670 for Lot 7; Schedule No. 2075-36-1-10-009 and \$148,415 for Lot 6; Schedule No. 2075-36-1-10-010 for tax year 2013.

Petitioner's witness, Ms. Brenda Fearn, with Sterling Property Tax Specialists, Inc. presented a market approach consisting of three comparable vacant land sales ranging in sales price from \$260,771 to \$500,000 and in size from 131,551 to 313,632 square feet. Ms. Fearn testified she considered sales that were most similar to the subject in size, topography and location. The subject lots and comparable lot sales are influenced by The Overlay District Airport Influence Area which delineates areas affected by aircraft noise and regulates development minimizing exposure. No adjustments were made to the sales and Ms. Fearn concluded to a weighted average based on size, location and proximity to the airport of \$1.71 per square foot for Lots 6 and 7.

Ms. Fearn testified that there were at least seven vacant lots within Filing 12, with approximately 57.1% of the subdivision vacant. After reviewing the ARL, Volume 3, Section 4.4, Ms. Fearn determined the subject lots qualified for present worth discounting because the lots were vacant and the 80% sellout threshold necessary for present worth discounting has not been reached.

Ms. Fearn presented a present worth analysis and concluded to an unadjusted sale price per square foot of \$1.71 and to an 8-year absorption period. She applied a 13.5% discount rate resulting in a per square foot value of \$1.01 for each of the lots.

To derive a value of the raw land, Ms. Fearn presented a comparable raw land analysis and identified three raw land sales within Arapahoe County and one sale located within Douglas County. The sales ranged in sales price from \$102,000 to \$1,151,700 and in size from 313,632 to 1,568,596 square feet. No adjustments were made, and Ms. Fearn concluded to raw land value of \$1.30 per square foot.

Ms. Fearn testified that according to ARL Volume 3, Section 4.10, vacant land present worth actual value must never drop below the actual value of the most comparable raw, undeveloped vacant land as of the appropriate level of value. Therefore, Ms. Fearn concluded to a value of \$1.30 per square foot resulting in an indicated land value of \$118,919 for Lot 7; Schedule No. 2075-36-1-10-009 and \$109,291 for Lot 6; Schedule No. 2075-36-1-10-010.

Respondent's witness, Mr. Kyle Hooper, Property Tax Specialist III, for the Division of Property Taxation, testified his primary responsibility and expertise is in agricultural classification, valuation, vacant land valuation and present worth discounting procedures. Mr. Hooper explained that the Division of Property Taxation developed guidelines outlining the criteria, procedures and

applicability of present worth discounting. Mr. Hooper provided testimony interpreting present worth discounting procedure guidelines in the ARL. Mr. Hooper discussed the definition of an “end user”, and the criteria outlined in the ARL in establishing an “end user”. Also, he described how sales to “end users” count towards reducing the vacant land inventory in absorption calculations and the 80% sellout threshold. Mr. Hooper also described raw land as the lowest market value of land that would sell in a particular area and that raw land in itself can be market value. The primary reason in establishing a raw land floor value is to ensure there are no inequities in valuation going through the present worth discounting procedures.

Respondent’s witness, Mr. Jesse Bequette, a Licensed Appraiser with Arapahoe County Assessor’s Office, presented a market approach consisting of five vacant land sales ranging in sales prices from \$110,000 to \$1,484,300 and in size from 55,321 to 478,812 square feet. After a 5% adjustment to Sale 2 for lack of visibility, the sales ranged from \$1.99 to \$3.10 per square foot. In concluding to a value, Mr. Bequette gave most weight to Sales 1 and 2 because they were both located within the same subdivision as the subject parcels. Secondary weight was placed on Sale 3 based on its location in a similar market area. Mr. Bequette concluded to a value of \$2.50 per square foot for Lots 6 and 7.

Mr. Bequette presented a raw land analysis consisting of four comparable sales. The land sales ranged from \$47,492 to \$3,320,000 and in size from 27,007 to 1,896,167 square feet. No adjustments were made and Mr. Bequette concluded to a raw land value of \$2.00 per square foot. Mr. Bequette determined there was less than 80% sellout threshold met and the subject lots qualified for present worth discounting. Mr. Bequette presented a present worth analysis and concluded to an unadjusted selling price per square foot of \$2.00 and to an 8 year absorption period. He applied a .59 discount factor resulting in a per square foot value of \$1.48 for each of the lots. Mr. Bequette testified based on the indicated \$1.48 per square foot value after the present worth analysis the value fell below the raw land floor and therefore he concluded to the raw land value of \$2.00 per square foot.

Mr. Bequette concluded to a value of \$2.00 per square foot resulting in an indicated land value of \$183,700 for Lot 7; Schedule No. 2075-36-1-10-009 and \$168,700 for Lot 6; Schedule No. 2075-36-1-10-010 for tax year 2013.

Petitioner presented insufficient probative evidence and testimony to show that the subject property was incorrectly valued for tax year 2013.

The burden of proof is on Petitioner to show that Respondent’s valuation is incorrect. *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). After careful consideration of the testimony and exhibits presented at the hearing, the Board concluded the comparable land sales presented in Respondent’s analysis concluding to \$2.50 per square foot reasonably supported market value for Lots 6 and 7. Respondent relied on a total of five vacant land sales as opposed to Petitioner’s three sales. Respondent’s Sales 1, 2 and 3 are located within close proximity to the subject lots representing similar market perceptions and airport influence. Although both parties relied on the sale located at 12826 E. Adam Aircraft Circle, it was the only sale used by Petitioner

within close proximity to the subject lots. The Board found Petitioner's Sales 2 and 3 to be located further from the market area which might reflect a different market perception and be less affected by the airport influence.

The Board was also not convinced Petitioner's raw land sales analysis supports a raw land value in the market area. Petitioner presented a total of four raw land sales including a sale that was reported by Co-Star but could not be confirmed through Douglas County, and sold as part of an assemblage. Petitioner provided insufficient evidence to determine whether the sale was purchased at market value or at a discounted price because it was a part of an assemblage. Respondent's raw land sales with the exception of Sale 2 are zoned A-MU. The Board was convinced that Respondent's raw land sales support a raw land value in the market area of \$2.00 per square foot. The Board placed most weight on Respondent's raw land Sale 4, because it is within closer proximity to the subject lots, the zoning is A-MU.

ORDER:

The Petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

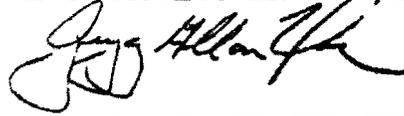
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 7th day of August, 2014.

BOARD OF ASSESSMENT APPEALS

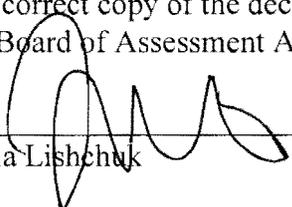


Gregg A. Near



Debra A. Baumbach

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.



Milla Lishchuk

